IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 524/2002
(Narendra Kumar Tanwar Vs. Abdul Aziz Khan)

Date of Order : 14/11/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. R.K.Charan for the petitioner.
Mr. Tribhuwan Gupta for the non-petitioner.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 16.4.2002 passed by Additional Sessions Judge No.1, Bhilwara (for short 'the revisional court' hereinafter), whereby the revision petition filed by the petitioner against the order dated 30.9.1999 passed by Additional Chief Judicial Magistrate, Bhilwara (for short 'the trial court' hereinafter) was dismissed.

I have heard learned counsel for the parties. Carefully gone through the orders passed by both the courts below as also the material available on record.

On a complaint lodged by non-petitioner for the offence under Section 500 IPC, the trial court took the cognizance of the offence and issued process against the present petitioner. That order came to be challenged by the petitioner before the revisional court. However, the revisional court did not interfere with the order of the trial court.

It appears from the record that a letter was addressed to the Superintendent of Police, Bhilwara by the petitioner who at the relevant time was Treasury Officer, Bhilwara on 28.3.1999 alleging therein that the present non-petitioner who is an employee of the District and Sessions Judge, Bhilwara, has been giving threatening to him showing power of some Judges of the District Court and have been indulged in taking away the bills or misplacement of bills, which are brought to the Treasury Office.

This Court by order dated 19.7.2004 noticed that the petitioner is a responsible officer holding the post of Treasury Officer. It is unfortunate that instead taking of the

matter of alleged misconduct of clerk to the District Judge, the petitioner has addressed a letter to the Superintendent of Police, perhaps under a wrong impression and therefore, the petitioner was directed to call upon the District Judge, Bhilwara and assure him that in future instead of taking such matter to the police he will act with more sobriety and in a dignified manner. The petitioner was also directed to file an affidavit in compliance of the direction of this Court. An affidavit has been filed by the petitioner which is on record and the petitioner has realized the mistake of addressing the letter to the Superintendent of Police. Be that as it may, on perusal of the letter addressed to the Superintendent of Police dated 28.3.99, in my view, it reveals more about the factual scenario and not about any defamatory statement. There is no evidence that by such a letter, the petitioner intended to harm the complainant or knowing or having reason to believe that such letter will harm the reputation of the person. Even otherwise, on merit, the essential ingredients for the offence of defamation are not made out. More so, in the instant case, the petitioner has already complied with the order of this Court and filed an affidavit. In the circumstances, therefore, it will not be in the interest of justice to allow the order impugned to stand and therefore, in order to secure the ends of justice, the order impugned deserves to be set aside.

In this view of the matter, the criminal misc. petition is allowed. The order dated 30.9.99 passed by the trial court and the order dated 16.4.2002 passed by the revisional court affirming the order of the trial court, are set aside. The proceedings against the present petitioner stand quashed.

(H.R.PANWAR),J.

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